

Agenda

Item #6



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: November 19, 2012

Re: Agenda Item #6: Request for Waiver of Penalty by the Somerset County
Republican Committee

The Somerset County Republican Committee (the Committee) is a county Republican Party committee which made two purchases to promote Republican nominees for the Legislature, requiring it to file independent expenditure reports:

- On October 22, 2012, it paid \$3,648 for radio ads (the report was required to be filed within two days on Oct. 24).
- On October 25, 2012, it paid \$2,500 for television ads (the report was required to be filed within one day on October 26).

Instead, it filed a single report on October 29, 2012. The reporting for the radio ads was five days late, and the reporting for the television ads was three days late.

Based on the amount of financial activity in the report, the numbers of days late, and the violation history, the Commission staff calculated the preliminary penalty to be \$407.40 in total for the two late reports. The Commission staff notified Shane Reitze, the treasurer for the Committee, on October 30, 2012. The Commission staff received a written request for a waiver of the preliminary penalty on November 13, 2012.

The Committee requests a waiver because:

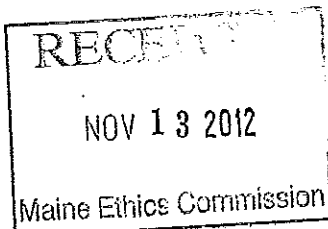
- It was the first time that the treasurer had attempted to participate in supporting candidates in a substantial way.
- He did not file the reports within the time frame necessary due to his lack of understanding and training in these areas.

Staff Recommendation

The Committee demonstrated an understanding that the radio and television purchases needed to be disclosed in an independent report, which it filed on October 29, 2012. The Commission offers no explanation (other than general lack of experience or training) why the reports were not filed within the two-day and one-day time periods. The Commission staff recommends reducing the penalty by 50% to \$203.70, because the amount of the preliminary penalty is disproportionate to the level of harm to the public from the late disclosure and the level of experience of the Committee treasurer.

Thank you for your consideration of this memo.

Ethics Commission,



11/11/12

I am asking that you waive the fines associated with my late submittals for the two reports. It was the first time that I had attempted to participate in supporting candidates in a substantial way. In so doing I failed to file the reports within the time frame necessary due to my lack of understanding and training in these areas. I am a volunteer that has been asked to be the treasurer for the county committee and I do my best to comply with all the laws associated as I learn them or am made aware of them. I apologize to the commission for my ignorance in reporting procedures and deadlines.

Sincerely,

Shane Reitze

Treasurer for SCRC



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

October 30, 2012

By Regular and Certified Mail

Mr. Shane Reitze, Treasurer
Somerset County Republican Committee
888 Warren Hill Road
Palmyra, ME 04965

Re: Penalty for late filing of IE report

Dear Mr. Reitze,

The Somerset County Republican Committee (Committee) was late in filing an independent expenditure (IE) report. For expenditures over \$250 per candidate that occurred between 9/7/2012 and 10/23/2012, IE reports are due within two calendar days of the expenditure. For expenditures over \$100 per candidate that occur between 10/24/2012 and election day, IE reports are due within one calendar day of the expenditure. (Commission Rules, Chapter 1, Section 10(3)) The Committee filed an IE on 10/29/2012 which included an expenditure of over \$250 per candidate on 10/22/2012, and an expenditure of over \$100 per candidate on 10/25/2012. Pursuant to the above rules, the Committee should have filed an IE for the 10/22 expenditure by 10/24 and for the 10/25 expenditure by 10/26.

Under the Commission's statutes, the late filing of an IE report triggers an enforcement process. (21-A M.R.S.A. § 1020-A(4-A)) Based on the amount of financial activity in the report, the number of calendar days the report was late, and the Committee's history of violations, the commission staff has determined that a penalty of \$407.40 is owed. (Please see attached penalty matrices for the calculation).

The Committee may request that the Commission waive the violation or penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice (or attempted delivery by the U.S. Post Office). The request must contain a full explanation of the reasons the committee filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting. Please direct all waiver requests to Jonathan Wayne, Executive Director, Maine Ethics Commission, 135 State House Station, Augusta, ME 04333.

The Commission may waive the penalty if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure. (21-A M.R.S.A. § 1020-A(2))

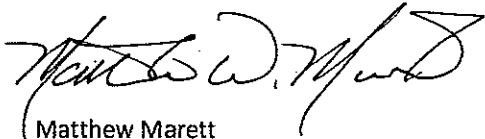
OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

The staff requests that the Committee pay the preliminary penalty within 14 days of the date of this letter if it does not intend to request a waiver. Please use the payment receipt below when mailing payments. Payments may also be made online at www.maine.gov/ethics by clicking on the "penalty payment" link. Please call me at (207) 287-6221 or send me an email at Matthew.Marett@Maine.gov if you have any questions.

Sincerely,



Matthew Marett
PAC, Party & Lobbyist Registrar

Enclosure: Payment Receipt and PAC penalty matrices

Payment Receipt

Mail payment to:

The Maine Ethics Commission
135 State House Station
Augusta, ME 04333.

Make checks payable to: "Treasurer, State of Maine."

Mr. Shane Reitze, Treasurer
Somerset County Republican Committee
888 Warren Hill Road
Palmyra, ME 04965

Violation: Late IE reports
Amount Due: \$407.40
Payment ID: 1925 & 1926

Committee Name:	Somerset County Republican Committee	Report Title:	IE - 10/24/12
		Due Date:	October 24, 2012
Previous Violation(s):	n/a	Filed Date:	October 29, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	\$3,648.00
		x	
		Percent Prescribed:	1%
X .01	Percent prescribed for first violation		\$36.48
		x	
\$25.00	One percent of total contributions	Number of days late:	5
X 2	Number of calendar days late		
		Total penalty accrued:	\$182.40
\$50.00	Total Penalty		

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(3)

\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is one-fifth of the amount reported late.

Committee Name:	Somerset County Republican Committee	Report Title:	IE - 10/26/12
		Due Date:	October 26, 2012
Previous Violation(s):	IE - 10/24/12	Filed Date:	October 29, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
 For the second violation, 3%
 For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

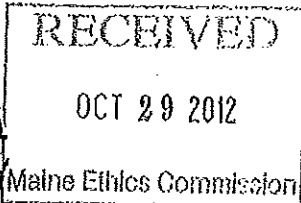
Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	\$2,500.00
		x	
		Percent Prescribed:	3%
X .01	Percent prescribed for first violation		\$75.00
		x	
\$25.00	One percent of total contributions	Number of days late:	3
X 2	Number of calendar days late		
		Total penalty accrued:	\$225.00
\$50.00	Total Penalty		

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
 21-A M.R.S.A. Section 1062-A(3)
 \$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports,
 except that if the financial activity reported late exceeds \$50,000,
 the maximum penalty is one-fifth of the amount reported late.



COMI

IE #170

2012 GENERAL ELECTION

INDEPENDENT EXPENDITURE REPORT – 2012 GENERAL ELECTION

Name of Person/Committee Making Expenditure(s) Somerset County Republican Committee
Mailing Address 888 Warren Hill Rd
City, Zip Code Palmyra 01965 Telephone 207-341-1001

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on a weekend or holiday if that is when they are due by faxing the report to the Commission (287-6775). The Commission must receive the signed original report within 5 days after the fax was received.

☐ Check here if this report is an amendment to a previously filed report? Date of original report: _____

INDEPENDENT EXPENDITURES OVER \$250 MADE FROM SEPTEMBER 7 THROUGH OCTOBER 23, 2012

- ☒ Independent expenditures made from September 7 through October 23, 2012 that total more than \$250 per candidate must be reported within 2 calendar days of making the expenditure.

☐ Report of Independent Expenditure over \$250 per Candidate

INDEPENDENT EXPENDITURES OVER \$100 MADE AFTER OCTOBER 23, 2012

- ☒ Independent expenditures made after October 23, 2012 that total more than \$100 per candidate must be reported within one calendar day of making the expenditure.

☒ Report of Independent Expenditure over \$100 per Candidate

OTHER INDEPENDENT EXPENDITURES (SELECT ONE REPORT BELOW)

Report (select one)	Due Date	What Gets Reported
<input type="checkbox"/> 60-Day Pre-Election Report	September 7, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 per candidate made on or before September 6, 2012
<input type="checkbox"/> 11-Day Pre-Election Report	October 26, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 but not more than \$250 made from September 7 through October 23, 2012

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Signature of PAC or Party Treasurer, or
Other Authorized Person Making Expenditure(s)

10-26-12
Date



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

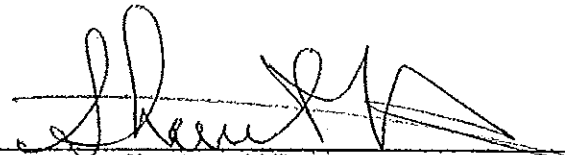
INDEPENDENT EXPENDITURE REPORT – 2012 GENERAL ELECTION

AFFIDAVIT

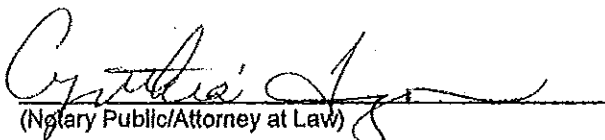
STATE OF Maine

COUNTY OF Somerset

I, Shane Reitze, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.


Signature of Affiant

Sworn to before me, this 25 day of October 2012


(Notary Public/Attorney at Law)

My commission expires: Sept 19, 2015

Schedule B-IE-1

CANDIDATE(S) SUPPORTED/OPPOSED

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
Shawboro Senate 27	Don Skillings	Support	2500
Senate 27	Doug Thomas	Support	405.33
House 24	Raymond Wallace	Support	405.33
House 27	Peter Johnson	Support	405.33
Senate 26	Rod Whittemore	Support	405.33
House 85	Don Skillings	Support	405.33
House 86	Ed Boss	Support	405.33
House 84	John Picchiotti	Support	405.33
House 29	Bob Engelhardt	Support	405.33
House 28	Dean Gray	Support	405.33
Total expenditures for all candidates this reporting period. This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒			0 6148 ⁰⁰

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types				
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)	
MHS	Mall house (all services purchased)	RAD	Radio ads, production costs	
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs	
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.	
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)	

Date of expenditure	Payee, address, zip code	Expenditure type	✓	Amount
10-25-12	Sutherland Weston Marketing Communication 6 State St Suite 102 Bangor, ME 04401	TVN		2500 ⁰⁰
10-22-12	Town Square Media 56 Western Ave. PO Box 5870 Augusta, ME 04332	RAD		3648 ⁰⁰
A. Expenditures for this page ⇒				0 6148 ⁰⁰
B. Total for all other Schedule B-IE-2 pages (if any) ⇒				0 6
C. Total independent expenditures for this reporting period (A+B). This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒				0 6148 ⁰⁰

21-A M.R.S.A. §1020-A. FAILURE TO FILE ON TIME

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[1995, c. 483, §15 (NEW) .]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]

B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[2009, c. 190, Pt. A, §13 (AMD) .]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[2011, c. 389, §22 (AMD); 2011, c. 389, §62 (AFF) .]

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]